

**LEWIS**  
AND  
**ROCA**  
LLP  
LAWYERS

E-Filed on 4/28/2009

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re:

USA Commercial Mortgage Company,

USA Capital Realty Advisors, LLC,<sup>1</sup>

USA Capital Diversified Trust Deed Fund,  
LLC,

USA Capital First Trust Deed Fund, LLC,<sup>2</sup>

USA Securities, LLC,<sup>3</sup>

Debtors.

**Affects:**

- ☐ All Debtors  
☒ USA Commercial Mortgage Company  
☐ USA Capital Realty Advisors, LLC  
☐ USA Capital Diversified Trust Deed Fund, LLC  
☐ USA Capital First Trust Deed Fund, LLC  
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR<sup>1</sup>  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR<sup>2</sup>  
Case No. BK-S-06-10729-LBR<sup>3</sup>

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**Status And Agenda For April 30, 2009  
Hearings filed by USACM Liquidating  
Trust**

Hearing Date: April 30, 2009  
Hearing Time: 9:30 a.m.  
10:30 a.m.

<sup>1</sup> This bankruptcy case was closed on September 23, 2008.

<sup>2</sup> This bankruptcy case was closed on October 12, 2007.

<sup>3</sup> This bankruptcy case was closed on December 21, 2007.

**Agenda for 9:30 a.m.**

1.  
**Status Hearing Re: USACM Liquidating Trust's Motion to Strike Defendant Michael Petersen's Jury Demand:** Adv. 08-01134-lbr, USACM Liquidating Trust & USA Capital Diversified Trust Deed Fund, vs. Mary Petersen & Mary Petersen Family Trust Dtd 8/12/89 & Michael D Petersen & Michael D Petersen Family Trust Dtd 8/12 & Kathryn L Petersen & Kathryn L. Petersen Living Trust & KLP Trust Dtd 7/15/99

**Motion Filed:** Motion to Strike *USACM LIQUIDATING TRUST'S Motion to Strike Defendant MICHAEL PETERSEN'S Jury Demand with Certificate of Service* Filed by ERIC D. MADDEN on behalf of USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC, USACM LIQUIDATING TRUST [DE 71]

**Order Filed:** Order Continuing Status Hearing Status hearing to be held on 3/27/09 3/30/2009 at 11:00 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 97]

**Status**

2.  
**Status Hearing Re: Complaint:** Adv. 08-01129-lbr; USACM Liquidating Trust v. Tanamera Resort Partners, LLC

**Complaint filed:** Adversary case 08-01129. Complaint Filed by USACM 4/11/08 LIQUIDATING TRUST vs. TANAMERA RESORT PARTNERS, LLC [DE 1]

**Order filed:** Order Setting Status Conference. Status hearing to be held on 4/15/09 4/30/2009 at 09:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 26]

**Status:**

3.  
**Hearing Re: Stipulation and Order to Enlarge Briefing Schedule on Defendant's Motion to Compel Arbitration and Dismiss, or Alternatively, Stay Proceedings Pending Arbitration:** Adv. 08-01135-lbr, USACM Liquidating Trust et al v. Wells Fargo Bank, N.A.

1 **Stipulation filed:** Stipulation By WELLS FARGO BANK, N.A. and Between USA  
2 3/16/09 Capital Diversified Trust Deed Fund, LLC *and proposed Order to*  
3 *Enlarge Briefing Schedule on Defendant's Reply to Plaintiff USA*  
4 *Capital Diversified Trust Deed Fund LLC's Response to Wells*  
5 *Fargo Bank, N.A.'s Amended Motion to Stay Pending*  
6 *Determination of Arbitrability, or Alternatively, to Dismiss*  
7 *Proceedings Pending Arbitration* Filed by STEVE A. PEIRCE on  
8 behalf of WELLS FARGO BANK, N.A. [DE 116]

9  
10 **Order filed:** Amended Order for Additional Briefing and Order Continuing  
11 3/30/09 Hearing. [DE 122]

12 **Status**

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14 4. **Amended Motion to Stay Pending Determination of Arbitrability, or**  
15 **Alternatively, to Dismiss or Stay Proceedings Pending Arbitration:** Adv. 08-01135-  
16 lbr, USACM Liquidating Trust & USA Capital Diversified Trust Deed Fund, & USA  
17 Capital First Trust Deed Fund, LLC vs. Wells Fargo Bank, N.A.

18  
19 **Motion Filed:** Amended Motion To Stay *Pending Determination of Arbitrability,*  
20 2/20/09 *or Alternatively, to Dismiss or Stay Proceedings Pending*  
21 *Arbitration* with Certificate of Service Filed by MICHAEL W.  
22 O'DONNELL on behalf of WELLS FARGO BANK, N.A. [DE  
23 104]

24 **Status** Continued from 3/06/09.

25  
26 5. **Status Conference Re: Complaint:** Adv. 08-01135-lbr, USACM  
Liquidating Trust et al v. Wells Fargo Bank, N.A.

1 **Complaint filed:** Adversary case 08-01135. Complaint Filed by USACM  
2 4/12/08 LIQUIDATING TRUST, USA CAPITAL DIVERSIFIED  
3 TRUST DEED FUND, LLC, USA CAPITAL FIRST TRUST  
4 DEED FUND, LLC vs. WELLS FARGO BANK, N.A. [DE 1]

5 **Order filed:** Order Status Hearing. Continued Status hearing to be held on  
6 4/14/09 4/30/2009 at 09:30 AM at LBR-Courtroom 1, Foley Federal Bldg.  
7 [DE 127]

8 **Status**

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10 6. **Status hearing Re: Complaint:** Adv. 08-01132-lbr, USA Capital  
11 Diversified Trust Deed Fund LLC v. Fulton

**Complaint filed:** First Amended Complaint Filed by MICHAEL YODER on behalf of USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC against STANLEY E FULTON [DE 49]

**Order filed:** Order Status Hearing. Continued Status hearing to be held on 4/30/2009 at 09:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 50]

**Status** Counsel for USACM Trust is ready to proceed.

7. **First Omnibus Objection to Proofs of Claim Based Upon Investment in Copper Sage Commerce Center, LLC Loan Except for Amounts Designated as "Unremitted Principal":** 06-10725-lbr, USA COMMERCIAL MORTGAGE COMPANY Chapter: 11

**Objection filed:** Omnibus Objection to Claim of in the amount of *First Omnibus Objection to Proofs of Claim Based Upon Investment in Copper Sage Commerce Center, LLC Loan Except for Amounts Designated as "Unremitted Principal"* with Certificate of Service Filed by JOHN HINDERAKER on behalf of USACM LIQUIDATING TRUST [DE 6969]

**Status** Counsel for the Trust was contacted by a representative for Wayne Dotson Co., re Proof of Claim No. 10725-0112. The Trust determined that the objection should be withdrawn as to his claim. No other responses filed. .

8. **Second Omnibus Objection to Proofs of Claim Based, in Whole or in Part, Upon Investment in Copper Sage Commerce Center, LLC Loan Except for Amounts Designated as "Unremitted Principal":** 06-10725-lbr, USA COMMERCIAL MORTGAGE COMPANY, Chapter: 11

**Objection filed:** Omnibus Objection to Claim of in the amount of *Second Omnibus Objection to Proofs of Claim Based, in Whole or in Part, Upon Investment in Copper Sage Commerce Center, LLC Loan Except for Amounts Designated as "Unremitted Principal"* with Certificate of Service Filed by JOHN HINDERAKER on behalf of USACM LIQUIDATING TRUST [DE 6971]

**Status** No response filed.

1  
2           **9. Third Omnibus Objection to Proofs of Claim Based, in Whole or in**  
3 **Part, Upon Investment in Copper Sage Commerce Center, LLC Loan Except for**  
4 **Amounts Designated as “Unremitted Principal”:** 06-10725-lbr, USA COMMERCIAL  
MORTGAGE COMPANY Chapter: 11

5 **Objection filed:** Omnibus Objection to Claim of in the amount of *Third Omnibus*  
3/26/09 *Objection to Proofs of Claim Based, in Whole or in Part, Upon*  
6 *Investment in Copper Sage Commerce Center, LLC Loan Except*  
7 *for Amounts Designated as "Unremitted Principal"* with  
8 Certificate of Service Filed by JOHN HINDERAKER on behalf  
of USACM LIQUIDATING TRUST [DE 6973]

9 **Status** No response filed.

10           **10. Objection to Claim 10725-02484 of Ross Deller Sr. in the amount of**  
11 **\$250,000.00 As Filed Partially in Wrong Debtor’s Case; Objection of DTDF of**  
12 **Proposed Allowance of Claim:** 06-10725-lbr, USA COMMERCIAL MORTGAGE  
COMPANY Chapter: 11

13 **Objection filed:** Objection to Claim 10725-02484 of Ross Deller Sr. in the amount  
3/27/09 of \$250,000.00 *As Filed Partially in Wrong Debtor's Case;*  
14 *Objection of DTDF to Proposed Allowance of Claim* with  
15 Certificate of Service Filed by JOHN HINDERAKER on behalf  
16 of USACM LIQUIDATING TRUST [DE 6981]

17 **Status** No response filed.

18           **11. Omnibus Objection of USACM Liquidating Trust to Proofs of Claim**  
19 **Based Upon Equipment Leases:** 06-10725-lbr, USA COMMERCIAL MORTGAGE  
COMPANY Chapter: 11

20 **Objection filed:** Omnibus Objection to Claim of in the amount of *Omnibus*  
3/30/09 *Objection of USACM Liquidating Trust to Proofs of Claim Based*  
21 *Upon Equipment Leases* with Certificate of Service Filed by  
22 JOHN HINDERAKER on behalf of USACM LIQUIDATING  
23 TRUST [DE 6987]

24 **Status** No response filed.

25           **12. Objection of USACM Liquidating Trust to Claims of Kantor**  
26 **Nephrology Consultants, Ltd. 401(k) PSP, Dr. Gary Kantor and Lynn M. Kantor:**  
06-10725-lbr, USA COMMERCIAL MORTGAGE COMPANY Chapter: 11

**Objection filed:** *Objection of USACM Liquidating Trust to Claims of Kantor Nephrology Consultants, Ltd. 401(k) PSP, Dr. Gary Kantor and Lynn M. Kantor with Certificate of Service Filed by JOHN HINDERAKER on behalf of USACM LIQUIDATING TRUST [DE 6989]*

**Status** Counsel for the Kantors has indicated that the Kantor Claimants will withdraw these claims before the hearing.

13. **Motion to Further Extend Deadline to File Objection to Allowance of Claims:** 06-10725-lbr, USA COMMERCIAL MORTGAGE COMPANY Chapter: 11

**Motion filed:** *Motion to Extend Time Motion to Further Extend Deadline to File Objection to Allowance of Claims* with Certificate of Service Filed by ROB CHARLES on behalf of USACM LIQUIDATING TRUST [DE 7003]

**Status** No response filed.

14. **Motion to Distribute Remaining Unclaimed Funds to USACM Liquidating Trust; and Dismiss Adversary Proceedings:** 06-01146-lbr, USA COMMERCIAL MORTGAGE COMPANY v. WELLS FARGO BANK, N.A. et al

**Motion Filed:** *Motion to Dismiss Adversary Proceeding Motion to Distribute Remaining Unclaimed Funds to USACM Liquidating Trust; and Dismiss Adversary Proceedings* with Certificate of Service Filed by JOHN HINDERAKER on behalf of USACM LIQUIDATING TRUST [DE 185]

**Status** No response filed.

15. **Motion for Relief From Stay Property: Tract C-1-A-1-B, Schwartzman Industrial Center, Within Sections 5 and 8, Township 9 North, Range 3 East, N.M.P.M., Bernalillo County, New Mexico, as the Same Are Shown and Designated on the Replat Filed on the Office of the County Clerk of Bernalillo County, New Mexico, on July 1, 2004 in Book 2004C, Page 200:** 06-10725-lbr, USA COMMERCIAL MORTGAGE COMPANY Chapter: 11



1 **Motion Filed:** Motion for Relief from Stay Property: Tract C-1-A-1-B,  
2 4/01/09 SCHWARTZMAN INDUSTRIAL CENTER, within Sections 5  
3 and 8, Township 9 North, Range 3 East, N.M.P.M., Bernalillo  
4 County, New Mexico, as the same are shown and designated on  
5 the replat filed on the office of the County clerk of Bernalillo  
6 County, New Mexico, on July 1, 2004 in Book 2004C, page 200  
7 [DE 6998]

8 **Status** No response filed.

9 16. **Objection to Claim 10725-01156 of Florence Bolatin Living Trust DTD**  
10 **10/23/98 in the amount of \$110,712.00 As Filed Partially in Wrong Debtor's Case;**  
11 **Objection of DTDF to Proposed Allowance of Claim:** 06-10725-lbr, USA  
12 COMMERCIAL MORTGAGE COMPANY Chapter: 11

13 **Objection Filed:** Objection to Claim 10725-01156 of Florence Bolatin Living Trust  
14 3/25/09 DTD 10/23/98 in the amount of \$110,712.00 *As Filed Partially in*  
15 *Wrong Debtor's Case; Objection of DTDF to Proposed Allowance*  
16 *of Claim* with Certificate of Service Filed by JOHN  
17 HINDERAKER on behalf of USACM LIQUIDATING TRUST  
18 [DE 6959]

19 **Status** No response filed.

20 17. **Objection to Claim 10725-02487 of Newby 1984 Family Trust Dated**  
21 **3/19/84 in the amount of \$345,000.00 As Filed Partially in Wrong Debtor's Case;**  
22 **Objection of DTDF to Proposed Allowance of Claim:** 06-10725-lbr, USA  
23 COMMERCIAL MORTGAGE COMPANY Chapter: 11

24 **Objection Filed:** Objection to Claim 10725-02487 of Newby 1984 Family Trust  
25 3/25/09 Dated 3/19/84 in the amount of \$345,000.00 *As Filed Partially in*  
26 *Wrong Debtor's Case; Objection of DTDF to Proposed Allowance*  
*of Claim* with Certificate of Service Filed by JOHN  
HINDERAKER on behalf of USACM LIQUIDATING TRUST  
[DE 6961]

**Status** No response filed.

18. **Objection to Claim 10725-02421 of Teri Melvin in the amount of**  
**\$613,561.41 As Filed Partially in Wrong Debtor's Case; Objection of DTDF to**  
**Proposed Allowance of Claim:** 06-10725-lbr, USA COMMERCIAL MORTGAGE  
COMPANY Chapter: 11

**Objection filed:** 3/25/09  
Objection to Claim 10725-02421 of Teri Melvin in the amount of \$613,561.41 *As Filed Partially in Wrong Debtor's Case; Objection of DTDF to Proposed Allowance of Claim* with Certificate of Service Filed by JOHN HINDERAKER on behalf of USACM LIQUIDATING TRUST [DE 6963]

**Status** No response filed.

19. **Objection to Claim 10725-00550 of Patti Page in the amount of \$200,000.00 As Filed Partially in Wrong Debtor's Case; Objection of DTDF to Proposed Allowance of Claim:** 06-10725-lbr, USA COMMERCIAL MORTGAGE COMPANY Chapter: 11

**Objection filed:** 3/25/09  
Objection to Claim 10725-00550 of Patti Page in the amount of \$200,000.00 *As Filed Partially in Wrong Debtor's Case; Objection of DTDF to Proposed Allowance of Claim* with Certificate of Service Filed by JOHN HINDERAKER on behalf of USACM LIQUIDATING TRUST [DE 6965]

**Status** No response filed.

**Agenda for 10:30 a.m.**

1. **Status hearing re second amended complaint:** Adv. 06-01256-lbr, USA COMMERCIAL MORTGAGE COMPANY et al v. REALE et al.

**Complaint filed:** 4/05/07  
Second Amended Complaint Filed by ANNE M. LORADITCH On Behalf Of USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC Against CRAIG ORROCK, Betty Phenix, ALLEN ABOLAFIA, BOB ALUM, FRANK J. BELMONTE, JR., JEAN JACQUES BERTHELOT, GARY BRENNAN, PAUL BRUGGEMANS, WILLIAM F ERRINGTON, HARV GASTALDI, GREAT WHITE INVESTMENTS, NV, INC., VINCENT GREEN, HMA SALES LLC, JAYEM FAMILY LTD PARTNERSHIP, AIMEE KEARNS, KLAUS KOPF, ARLENE KRAUS, BERNARD KRAUS, JOSEPH B. LAFAYETTE, GEORGES LAFORGE, JASON G LANDESS, SVEN LEVIN, JACQUES M. MASSA, NATIONAL REAL ESTATE HOLDINGS, INC., R&N REAL ESTATE INVESTMENTS, R.G.T. MILLER (TRUSTEE), SALVATORE REALE, DENNIS F. SIPIORSKI, DAVID STIBOR, KENNETH TRECHT, USA COMMERCIAL REAL ESTATE GROUP, ROBERT J.



VERCHOTA, STEVE WALTERS, RUSSELL J. ZUARDO [DE 201]

**Order filed:** Order Continuing Status Hearing. Status hearing to be held on 2/24/09 4/30/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 426]

**Status**

2. **Motion to Dismiss Party ALLEN ABOLOFIA as Defendant Pursuant to Fed. R. Civ. P. 41(a)(2):** Adv. 06-01256-lbr, USA COMMERCIAL MORTGAGE COMPANY et al v. REALE et al.

**Motion filed:** Motion to Dismiss Party ALLEN ABOLOFIA *as Defendant* 3/27/09 *Pursuant to Fed. R. Civ. P. 41(a)(2)* Filed by BRIGID M. HIGGINS on behalf of HMA SALES LLC, HMA SALES, LLC [DE 431]

**Status**

3. **Scheduling Conference Re: Complaint:** Adv. 08-01209-lbr, USACM Liquidating Trust & USA Capital Diversified Trust Deed Fund, vs. David A Fogg

**Complaint filed:** Adversary case 08-01209. Complaint Filed by USACM 7/15/08 LIQUIDATING TRUST, USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC vs. DAVID A FOGG [DE 1]

**Order filed:** Order Establishing Procedures for Judicial Settlement Conference. 2/27/09 Settlement Conference scheduled for 4/21/2009 at 01:30 PM at LBR-Courtroom 1, Foley Federal Bldg. Scheduling Conference scheduled for 4/30/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 30]

**Status** Counsel for USACM Trust is ready to proceed.

4. **Status hearing re: Complaint:** Adv. 08-0166-lbr, USACM Liquidating Trust v. Compass USA SPE, LLC et al

**Complaint filed:** Adversary case 08-01066. Complaint Filed by USACM 2/29/08 LIQUIDATING TRUST vs. COMPASS USA SPE, LLC, REPUBLIC TITLE OF TEXAS, INC. [DE 1]

**Counterclaim filed:** Answer and Counterclaim [DE 14] 5/1/2008

**Order filed:**  
2/06/09

Order Setting Hearing. Status hearing to be held on 2/20/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 48]

**Status**

Compass' counsel has been granted leave to withdraw, yet it is a party to unresolved disputes pending in this action. Compass has not retained substitute counsel. The interest of the plaintiff in one discrete portion of the litigation – whether Compass is liable for failing to remit over \$55,000 in prepaid interest – may now be owned by Debt Acquisition Company of America V, LLC, pursuant to the Court's Order Granting Motion to Approve Settlement With Debt Acquisition Company of America V, LLC [DE 6893]. The Trust will recommend that the Court continue this matter to a status hearing with notice to Compass at which hearing Compass shall be represented by counsel or its answer and counterclaim be stricken for lack of prosecution.

Dated April 28, 2009.

**LEWIS AND ROCA LLP**

By: /s/ RC (#6593)

Susan M. Freeman, AZ 4199 (*pro hac vice*)

Rob Charles, NV 6593

John Hinderaker, AZ 18024 (*pro hac vice*)

*Counsel for USACM Liquidating Trust*

**PROOF OF SERVICE**

COPY of the aforementioned sent via e-mail or U.S. First Class Mail on April 28, 2009 to the parties listed on Post-Effective Official Service List for Limited Notice No. 5 Dated March 31, 2009.

/s/ Carrie Lawrence

Carrie Lawrence  
Lewis and Roca LLP